

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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HOANG KIM TRAN,

Plaintiff,

v.

CITY OF LAS VEGAS, *et al.*,

Defendants.

Case No. 2:22-cv-00203-ART-BNW

ORDER

*Pro se* Plaintiff Hoang Kim Tran brings this action under 42 U.S.C. § 1983. Plaintiff alleges that on March 28, 2021, police officers ordered a dog to “sic him,” even though he had his hands up and was getting down on his knees, leading the dog to bite his left forearm and torso and resulting in the permanent loss of his right nipple. (ECF No. 1-1 at 3-5.) Before the Court is the Report and Recommendation (“R&R” or “Recommendation”) of United States Magistrate Judge Brenda Weksler (ECF No. 27), recommending the Court dismiss without prejudice Plaintiff’s Fourth Amendment excessive force claim against Officers Ortega, Lomoglio, Raso, Stokey, and Murano in their official capacity but allow to proceed Plaintiff’s Fourth Amendment excessive force claim against the officers in their individual capacity. Plaintiff had until May 8, 2023 to file an objection. To date, no objection to the R&R has been filed. For this reason, and as explained below, the Court adopts the R&R, and will allow Plaintiff’s Fourth Amendment excessive force claim against the officers in their individual capacity to proceed.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party fails to object to a magistrate judge’s recommendation, the Court is not

1 required to conduct “any review at all . . . of any issue that is not the subject of  
2 an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v.*  
3 *Reyna-Tapia*, 328 F.3d 1114, 1116 (9th Cir. 2003) (“De novo review of the  
4 magistrate judges’ findings and recommendations is required if, but *only* if, one  
5 or both parties file objections to the findings and recommendations.”) (emphasis  
6 in original); Fed. R. Civ. P. 72, Advisory Committee Notes (1983) (providing that  
7 the Court “need only satisfy itself that there is no clear error on the face of the  
8 record in order to accept the recommendation.”).

9 Because there is no objection, the Court need not conduct de novo review,  
10 and is satisfied Judge Weksler did not clearly err. Here, Judge Weksler  
11 recommends the Court allow Plaintiff’s Fourth Amendment excessive force  
12 claims against the officers in their individual capacity to proceed but dismiss the  
13 Fourth Amendment excessive force claim against the officers in their official  
14 capacity. (ECF No. 27 at 4-5.) The Court agrees with Judge Weksler. Having  
15 reviewed the R&R and the record in this case, the Court will adopt the R&R in  
16 full.

17 It is therefore ordered that Judge Weksler’s Report and Recommendation  
18 (ECF No. 27) is accepted and adopted in full.

19 It is further ordered that Plaintiff’s Fourth Amendment excessive force  
20 claim against the officers in their individual capacity is allowed to proceed.

21 It is further ordered that Plaintiff’s Fourth Amendment excessive force  
22 claim against the officers in their official capacity is dismissed without prejudice.

23 It is further ordered that Plaintiff’s mayhem claim is dismissed with  
24 prejudice as Judge Weksler had ordered in a prior screening order (ECF No. 21).

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1 DATED THIS 11<sup>th</sup> Day of October 2023.

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4 ANNE R. TRAUM  
5 UNITED STATES DISTRICT JUDGE  
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